Supreme Court, U.S.
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No. 89-225

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1989

MARY ROSENTHAL, BERNARD L. MILLER
YETTA MILLER, and the Estates of
SAMUEL SCHWARTZ & ANNA SCHWARTZ
PETITIONERS,
Acting Pro Se

VS.

JEROME J. VERLIN, ESQUIRE
RESPONDENT

REPLY TO BRIEF IN OPPOSITION

TO PETITION FOR WRIT OF CERTIORARI

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ARGUMENT

The respondent contends that this case involves no special or important reason but this petition is special as it brings to light an extraordinary important issue in the field of law, which faces our generation today and in the future--a task which requires full cooperation among many lawmakers and disciplinarians as well. This matter involves a Constitutional matter not to be ignored, for it pertains to the rights of the common man, given no recourse in legal malpractice suits but to act pro se or do what the multitude of legal victims must succumb to--forfeit their rights and drop charges--due to extreme prejudice and discrimination in our legal society.

Due to omitted and overlooked facts in respondent's brief pursuant to Pa.R.A.P. 903 the petitioner will reiterate the law so that there will be no question but that the Pa. Court's dismissal of appeal was incorrect.

> "That decisions under R.A.P. 903 are clearly no longer valid in light of R.A.P. 1701(b)(3). An appeal is rendered inoperative if reconsideration is pending." (Pa. Appellate Ruling 903(a) Effect of Petition for Reconsideration).

The Pa. Supreme Court and the Pa. Superior Court failed to recognize the rule change amended in 1979.

An appeal from the Order of Summary Judgment was refused by the Pa. Superior Court when petitioner informed the Clerk of their intentions of filing a Petition for Reconsideration.

> "There can be no appeal until there has been a judgment of final order in the court from which the appeal is taken." (Superior Court Rules. Rules of Practice Rule 4, Subdivision a(2d.)

The petitioners' Petition for Reconsideration of the Summary Judgment Order of Jan. 20, 1988 was not enclosed in the personal letter of March 22, 1988 sent to Judge Lehrer, as stated by the respondent. The petition was hand delivered by the petitioner to the Phila. Motion Court, time stamped '88 Feb. 19 PM 4:21

- cost $12.00. In the Response of March 4, 1988 to the Petition for Reconsideration the respondent claimed that the Petition was untimely filed. Although the petitioners were never advised by the Court or respondent of Judge Lehrer's ruling, pertaining to Petition for Reconsideration, the Prothonatary Court's records were regularly checked by the petitioners for a decision so that a timely filed appeal would be made if needed.

All cases cited in the respondents Brief in Opposition to Petition For Writ of Certiorari referring to the old Ruling of Rule 903(a) are foreclosed to this action due to the New Ruling.

The Trial Court committed prejudicial abuse of its discretion in awarding the Summary Judgment in favor of the respondant as its means of disposing the litigation, while refusing the Constitutional rights of the petitioners to due process of the law, to a trial by jury or hearing. The personal letter of March 22, 1988 by the petitioner to the

Trial Judge, requesting a hearing and a lie detector test to prove to the court that the facts and records submitted to the Trial Court were of the utmost importance in the Court's rendering their final decision. The respondent without any justification was awarded the Summary Judgment.

> Summary Judgment should be entered only in very clear cases." (Shaffer v. Larzelere 189 A2d 267-410 Pa. 402 Pa. Com Pl. 1963)
>
> "All doubts must be resolved against a Summary Judgment, and such a judgment can only be entered in a clear case." (Shoemaker v. McKinney 30 Northumb L.J.14 Pa. Com Pl. 1958)

The respondent accuses the petitioners of violating Rule 34.6 of this Court, prohibiting scandalous material. All materials submitted, exploiting the truth of the matters and linking the respondent's malpractice behavior, should not be considered scandalous but a manner of seeking justice according to the annals of the Pa. Code of Professional Liability, which states:

> "One generalization can be safely made, the court usually holds the client responsible for the acts and omissions of his agent offering the client as solace, the suggestion that he sue his attorney for mal-practice."

The phrase "the multiple other lawyers engaged by the petitioners" an issue raised by the respondent in this court and constantly flaunted by the respondent, is a form of art developed by the respondent to cover a ruthless endeavor to humiliate and incite prejudice, as punishment to the petitioners for initiating malpractice charges. "The multiple other lawyers engaged by the petitioners" became involved in a conspiracy engineered by Daniel Rosenthal and his attorney, with a written proposition which stated, in part--

> "I strongly urge that the question as to the ultimate division of proceeds among the Rosenthals, Millers and Schwartzs be postponed until there is a recovery. However it should be made clear to the clients that after a recovery, council will receive their fees and costs"----"the suit in Monroe County should be withdrawn"----"the proper cause of action should be continued in Phila."

The petitioners unaware of the letter, when slyly approached by "the multiple other lawyers", on the subject of withdrawing, from the Monroe County action, refused their suggestion unless a detailed Agreement with Daniel Rosenthal as to the disposition of the proceeds of the suit in Phila., detailed enough to completely determine in advance the rights of the parties, if the suit against the insurance companies was successful. The agreement was never achieved. The respondent had full knowledge of all prior attorneys before being retained.

The respondent fully cognizant of this Court's Jurisdiction on Appeals deliberately and maliciously advanced the claim that the Petition with this Court was untimely filed.

CONCLUSION

The respondent plays his game well in a field for obstructing eyes with words that masquerade as things--without a checkup, and has submitted no justifiable defense.

The Petition for Writ of Certiorari should be Granted so that the wrongs, far to long, can be made right and that Justice will finally be served.